



**FOR IMMEDIATE RELEASE**  
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**MEDIA CONTACTS**  
Jared Touchin | 928.221.9253  
Jolene Holgate | 928.380.4174  
Chrissy Largo | 928.871.7160  
nnlb.communications@gmail.com

## **Navajo Nation Council tables legislation seeking to obtain performance and reclamation bonds for the possible acquisition of BHP Navajo Mine**

**WINDOW ROCK** – During a special session held on Monday, the Navajo Nation Council voted to table Legislation No. 0367-13, which seeks to grant a limited waiver of the Nation’s sovereign immunity to allow the Navajo Transitional Energy Company, LLC to obtain performance and reclamation bonds to bring the company a step closer to acquiring BHP Navajo Mine.

In his opening remarks to Council, legislation sponsor Council Delegate LoRenzo Bates (Nenahnezad, Newcomb, San Juan, Tiis Tsoh Sikaad, Tse’Daa’Kaan, Upper Fruitland) urged the approval of the bill to allow Council to fulfill its “original intent” by allowing NTEC to move forward with the purchase of the mine and to make the Nation a “player” in the energy industry.

“It does not change the intent of what we as Council voted on and that was to gain control — to become a player in the energy field,” stated Delegate Bates. “For 54 years, this Nation has sat on the bench and collected [royalties] and has had no say in a resource that we have a hundred years’ worth of.”

NTEC board chairman Steve Gunderson, later explained that the legislation seeks the approval of two separate bonds or “insurance contracts”, which also require the First Judicial District Court of the State of New Mexico to enforce arbitration between the Nation and the insurers in the event of a dispute.

Gunderson said the reclamation bond, required by the U.S. Office of Surface Mining, insures that funding needs will be met to reclaim the mining site, in accordance with federal law.

The performance bond is required by the Four Corners Power Plant to insure a source of funding in case of an interruption in the coal supply such as flooding, according to Gunderson.

“NTEC does not have a track record today, and because NTEC does not have the assets is the reason we’re here today,” said Delegate Bates, explaining the need for the bonds on the basis that NTEC is a newly established company with no “track record” or current assets.

The majority of Monday’s discussion centered on a question raised by Council Delegate Katherine Benally (Chilchinbeto, Dennehotso, Kayenta) over whether the legislation required a simple majority vote or two-thirds vote.

In accordance with Navajo Nation law, a limited waiver of sovereign immunity requires two-thirds approval of Council, or sixteen supporting votes.

Council Delegate Russell Begaye (Shiprock) expressed strong opposition in regard to a memo from Navajo Nation Attorney General Harrison Tsosie addressed to members of the Council, in which he stated that the legislation only required a simple majority for passage.

Delegate Begaye also opposed the requirement to have the First Judicial District Court of the State of New Mexico serve as the enforcer in the event of arbitration, referring to the mandate as a breach of trust between the insurance companies and the Nation.

“These guys don’t trust our courts so that’s why they are wanting us to move out of Navajo Nation court and move it into Arizona or New Mexico,” said Delegate Begaye. “As I’ve said before, if they were doing business in a place like Thailand or Vietnam or China, they would not hesitate to use the courts of those countries because they respect it and so in this case, we’re not being respected by not utilizing our courts.”

After a lengthy discussion, Council members voted 10-7 to approve a motion made by Delegate Begaye to require a two-thirds majority approval for the proposed legislation.

Immediately following the approval of Delegate Begaye’s motion, Council members voted 10-7 to table Legislation No. 0367-13.

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